

**In the United States Court of Appeals
for the District of Columbia Circuit**

Nos. 21-7109, 21-7110 & 21-7111

NATIONAL ATM COUNCIL, INC.; ATMS OF THE SOUTH, INC.;
BUSINESS RESOURCE GROUP, INC.; WASH WATER SOLUTIONS,
INC.; ATM BANKCARD SERVICES, INC.; SELMAN
TELECOMMUNICATIONS INVESTMENT GROUP, LLC;
TURNKEY ATM SOLUTIONS, LLC; TRINITY HOLDINGS LTD, INC.;
JUST ATMS USA, INC.; 901 FINANCIAL SERVICES LLC,
APPELLEES

AND

ANDREW MACKMIN; BARBARA INGLIS; SAM OSBORN,
APPELLEES

AND

PETER BURKE; KENT HARRISON;
MARIN P. HEISKELL; BRYAN BYRNES,
APPELLEES

v.

VISA INC.; VISA U.S.A. INC.; VISA INTERNATIONAL SERVICE
ASSOCIATION; PLUS SYSTEM, INC.; MASTERCARD INC.;
MASTERCARD INTERNATIONAL INC.,
APPELLANTS

JOINT RESPONSE TO ORDER TO SHOW CAUSE

On October 6, 2023, this Court directed the parties to show cause by November 6, 2023, as to why the sealed portions of the record in this appeal should not be unsealed. In response, the parties jointly state:

1. All parties stipulated in the district court to protective orders prohibiting the disclosure of confidential information exchanged during discovery. *See* J.A. 32 (ECF No. 85); J.A. 81 (ECF No. 112); J.A. 113 (ECF No. 61). Relying on the stipulated protective orders, all parties moved to file many exhibits to the class certification papers under seal. *See* J.A. 40-41, 43, 45 (ECF Nos. 152, 158, 173, 184, 186, 187); J.A. 87, 91-94 (ECF Nos. 177, 203, 217, 220, 221); J.A. 118, 120, 122 (ECF Nos. 111, 128, 145, 147, 148). The district court granted those motions. *See* J.A. 41, 44, 46, 89, 93, 95, 118, 121, 123.

2. Pursuant to Rule 47.1(a), “[a]ny portion of the record that was placed under seal in the district court . . . remains under seal in this [C]ourt unless otherwise ordered.” Accordingly, much of the record before this Court appeared only in the sealed joint appendix volumes.

3. The Court has remanded these three cases to the district court for further proceedings following class certification. Because the documents included in the sealed joint appendix will remain under seal in the district court during those further proceedings pursuant to the protective orders, the parties request that the documents remain under seal in this Court on that basis.

4. The portions of the record in the sealed joint appendix on appeal should not be unsealed until they are first unsealed in the district court. The parties will promptly notify this Court if any of the documents included in the sealed joint appendix are unsealed by the district court.

Respectfully submitted,

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NOVEMBER 6, 2023

**CERTIFICATE OF COMPLIANCE
WITH TYPEFACE AND WORD-COUNT LIMITATIONS**

I, Kannon K. Shanmugam, counsel for appellants Mastercard Inc. and Mastercard International Inc. and a member of the Bar of this Court, certify, pursuant to Federal Rule of Appellate Procedure 27(d), that the foregoing Joint Response to Order to Show Cause is proportionately spaced, has a typeface of 14 points or more and contains 303 words.

NOVEMBER 6, 2023

/s/ Kannon K. Shanmugam
KANNON K. SHANMUGAM

CERTIFICATE OF SERVICE

I, Kannon K. Shanmugam, counsel for appellants Mastercard Inc. and Mastercard International Inc. and a member of the Bar of this Court, certify that, on November 6, 2023, a copy of the attached Joint Response to Order to Show Cause was filed through the Court's electronic filing system. I further certify that all participants in the case are registered users with the electronic filing system and that service will be accomplished by that system.

/s/ Kannon K. Shanmugam
KANNON K. SHANMUGAM